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Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Comprehensive proposal on appropriate incentives to retain staff of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia

Report of the Secretary-General

Summary

In its resolution 61/274, the General Assembly noted with concern that there may be difficulties in retaining and recruiting key staff as the Tribunals complete their mandates, as noted in the reports of the Secretary-General (A/61/824) and the Advisory Committee on Administrative and Budgetary Questions (A/61/923). In the same resolution, the Assembly requested the Secretary-General, without prejudging any decision on the implementation of measures for staff retention, to submit a report to it no later than the first part of its resumed sixty-second session, which would include cost implications and, inter alia, updated human resources data, including on current and projected staff turnover, also taking into account the expiration of contracts, the number of staff departures and the identification of key positions where the problem of retention could arise; drawdown plans for each Tribunal, which would show clearly the anticipated post reductions for each year until the Tribunals complete their mandates; non-monetary incentives and measures, including those that would take advantage of the foreseen downsizing of staff at the Tribunals, such

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as outplacement, enhanced system-wide coordination in the areas of career development, mobility and secondment, that are within the United Nations common system and staff regulations and rules; clear justification for the possible payment of a retention incentive; all legal aspects related to the implementation of a staff retention scheme; and alternative approaches to the calculation of the amount of a retention incentive, including focusing the proposals on core positions, required years of service, possible cap mechanisms and the timing of their payment, as well as the conditions attached to such retention schemes.

The present report is submitted pursuant to that request.

I. Introduction

1. In its resolutions 61/241 and 61/242, the General Assembly endorsed the recommendations of the Advisory Committee on Administrative and Budgetary Questions contained in its report on financial and any other implications resulting from the introduction of a staff retention bonus at the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia (A/61/591), which, inter alia, requested the Secretary-General to further explore ways and means of applying existing Staff Regulations and Rules, including annex III thereto (which deals with termination indemnities), with a view to achieving the desired objectives of retaining staff throughout the completion phases of the mandates of the Tribunals. In the same report, the Advisory Committee requested the Secretary-General to present a comprehensive proposal with the procedures to be applied, the decision required of the Assembly and a clearer projection of the numbers of staff required to be retained during the foreseeable phases of the completion strategy.

2. The Secretary-General presented a comprehensive proposal on appropriate incentives to retain staff of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia (A/61/824). In that report, he outlined the proposed incentives to retain staff while taking into consideration, to the extent possible and with adaptations, as necessary, the application of existing Staff Regulations and Rules, including annex III.

3. As set out in paragraph 2 of that report, based on the cost components analysed, consisting primarily of: (a) the loss of productivity (delays in proceedings); (b) the direct costs of appointment and separation of staff (rotation costs); and (c) the actual payment of the retention incentive, the financial implications arising from the introduction of a retention incentive would far offset the additional costs related to higher rates of staff turnover. On the financing side, it was estimated that the establishment of a retention incentive payment would amount to $11.2 million and $12.1 million for the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, respectively.

4. The Advisory Committee on Administrative and Budgetary Questions, in its report on financial and any other implications resulting from the introduction of a staff retention bonus at the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia (A/61/923), recognized the importance of retaining key staff to support the timely implementation of the completion strategy and the special features of the Tribunals, including the fact that a large proportion of their staff performs specialized functions not readily available within the United Nations system. Under the circumstances, the Committee considered the use of a retention incentive, pursuant to the terms of annex III to the Staff Rules, to be an option, inasmuch as it would enable the Tribunals to retain required staff until their posts are abolished. The Committee recommended that consideration be given to increasing the number of years of service required before key staff become eligible for the retention incentive from two to five years of continuous service, until the post is abolished. The Advisory Committee further recommended that the administrative arrangements for retention incentives be based on an ad hoc decision of the General Assembly rather than on an amendment to the Staff Rules.

5. In its resolution 61/274, the General Assembly noted with concern that there may be difficulties in retaining and recruiting key staff as the Tribunals complete their mandates, as noted in the reports of the Secretary-General (A/61/824) and the Advisory Committee on Administrative and Budgetary Questions (A/61/923). In the same resolution, the Assembly requested the Secretary-General, without prejudging any decision on the implementation of measures for staff retention, to submit a report to it no later than the first part of its resumed sixty-second session, which would include cost implications and, inter alia:

(a) Updated human resources data, including on current and projected staff turnover, also taking into account the expiration of contracts, the number of staff departures and the identification of key positions where the problem of retention could arise;

(b) Drawdown plans for each Tribunal, which would show clearly the anticipated post reductions for each year until the Tribunals complete their mandates;

(c) Non-monetary incentives and measures, including those that would take advantage of the foreseen downsizing of staff at the Tribunals, such as outplacement, enhanced system-wide coordination in the areas of career development, mobility and secondment, that are within the United Nations common system and Staff Regulations and Rules;

(d) Clear justification for the possible payment of a retention incentive;

(e) All legal aspects related to the implementation of a staff retention scheme;

(f) Alternative approaches to the calculation of the amount of a retention incentive, including focusing the proposals on core positions, required years of service, possible cap mechanisms and the timing of their payment, as well as the conditions attached to such retention schemes.

6. The present report is submitted pursuant to that request.

7. In paragraph 8 of its resolution 61/274, the General Assembly also noted that the payment of a retention incentive was not provided for by the United Nations common system and could have implications for the common system, and therefore requested the International Civil Service Commission (ICSC) to advise it on the proposal of the Secretary-General contained in his report no later than the main part of its sixty-second session.

8. The International Civil Service Commission, in its thirty-third annual report to the General Assembly, dated 10 August 2007,[1] advised the Assembly that: (a) special financial retention incentives for the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia were not considered appropriate because they were not provided for in the common system and as such would set a precedent, which should be avoided; (b) the existing contractual framework should be used to grant contracts that would remove the uncertainty with regard to future employment as follows: (i) for all staff members occupying key posts, for example, prosecutors, forensic specialists and

[1] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 30* (A/62/30 and Corr.1).

investigators, fixed-term contracts should be granted that extend for the duration of the mandate of the Tribunals. If turnover was insufficient and staff had to be terminated before the end of the mandate because their skills were no longer needed, staff would be eligible for termination indemnities if they otherwise met the requirements; (ii) for the remainder of the staff, the skills needed through each planned post reduction should be identified and fixed-term contracts offered, consistent with the dates of the planned post reductions; (c) other non-monetary incentives should be made available to all staff of the Tribunals, such as outplacement services, consideration as internal candidates when applying for jobs in other common system organizations, use of special post allowance to facilitate the orderly phase-down of the Tribunals, expansion of training options, establishment of an internal competitive examination for recruitment to the Professional category of staff members from other categories, recruitment of qualified spouses, enhanced system-wide coordination in the areas of career development, mobility and secondment; and (d) those staff from the Tribunals who are offered appointments in another common system organization should have their reporting date for the new assignment set to coincide with completion of their work with the Tribunal.

II. Alternative incentive proposals

A. Updated human resources data

9. Annex I provides information on current and projected staff turnover. A total of 130 staff members left the International Tribunal for the Former Yugoslavia during 2007, which represents 14 per cent of the total number of assessed budget posts. A total of 109 staff members separated from the International Criminal Tribunal for Rwanda in 2007 — a staff turnover rate of 11 per cent. The fact that the number of staff departures is not higher at this juncture should not be construed to mean that a retention incentive is not urgently required. Should the decision on the retention incentive be further postponed or not reviewed favourably, both Tribunals would anticipate departures on a large scale in the near future, especially following the 2008 summer break, by which time decisions will have been taken as regards schooling for the next academic year. With regard to projected staff turnover, as mentioned in previous reports, the Tribunals anticipate that without an incentive package in place, turnover rates will increase significantly, to 20 per cent per year, and continue to rise as the completion dates draw near.

10. Following approval from the Controller, contracts for all regular posts were extended until the latest possible date (either August or October 2009). After the initial exodus of staff that occurred when the completion strategy was first announced, the number of departures has been sizeable but, by and large, manageable. Various non-monetary measures may have helped to reduce the flow (e.g., the 2007 extension of contracts mentioned above has had a considerable impact as a temporary level of security). However, with the completion date approaching, staff will leave for more secure jobs. The upcoming establishment of the Lebanon tribunal in The Hague (with an estimated 300 posts) is likely to be an attractive employment alternative, with a lifespan that may extend beyond that of the International Tribunal for the Former Yugoslavia. The number of staff departures

to that employer alone are expected to be considerable; data will be available at the end of 2008.

11. As to the identification of key positions, the Tribunals would like to note that in both the Professional and General Service categories, the level of expertise required and the working methods developed are such that, by and large, all functions require specific experience and knowledge, so as to enable the Tribunals to complete their mandates in a timely manner. The support staff in both Tribunals perform tasks that, in most instances, require a level of expertise and experience that cannot be easily matched, and, therefore, any replacement staff would require considerable training. This situation is not limited to the legal field, but also extends to administrative and other support functions, for which knowledge of applicable procedures is highly relevant, if not essential. It is further noted that, as a result of future post reductions, Tribunal experience will become increasingly important, since tasks are likely to be combined as the Tribunals gradually downsize. The number of functions and posts for which previous Tribunal experience is not an absolute requirement is relatively small and would not justify exclusion given the minimal number involved and the detrimental impact that this would have on morale.

B. Drawdown plans for each Tribunal

12. During the biennium 2008-2009, with the completion of first-instance trials, the focus will gradually shift to appeals. In line with that trend, the approved budgets of the Tribunals reflect a gradual redeployment of posts from trial to appellate support work (in both the Office of the Prosecutor and the Registry), coupled with the phasing out of 349 and 258 posts at the International Criminal Tribunal for Rwanda and International Tribunal for the Former Yugoslavia, respectively, beginning in 2009, consistent with the reduction in first-instance trial activity anticipated in the second half of 2009. That represents 33 per cent and 26 per cent of staffing levels for the 2006-2007 biennium at the International Criminal Tribunal for Rwanda and International Tribunal for the Former Yugoslavia respectively. Annex II provides a breakdown by organ of the drawdown plan for both Tribunals. Based on current projections, all pending proceedings will be at the appeal stage after 2009 (with the exception of three cases in the International Tribunal for the Former Yugoslavia that are scheduled to be completed in the first half of 2010). Since staffing levels are directly related to trial activity, the Tribunals anticipate a significant reduction of posts commencing in early 2010. However, at this juncture the Tribunals are not in a position to provide detailed estimates on the timing and level of post reductions. It is expected that such estimates will be available at the time of preparation of the next budget, sometime in the spring of 2009.

C. Justification for the possible payment of a retention incentive and legal aspects related to the implementation of a staff retention scheme

13. As explained in previous reports, the comprehensive review conducted by the Tribunals revealed that the benefits of the retention bonus far outweigh the

operational implications and related financial implications associated with higher rates of staff turnover. In addition, should staff turnover increase significantly, the loss of institutional knowledge brought about by staff departures would have a direct impact on productivity and efficiency and, by extension, on the pace of trial activity. At the same time, considerable expenditures would be incurred in respect of rotation costs. The implications for the completion strategies and the reduced rotation costs of the proposed retention bonus are both significant, and, in the view of the Tribunals, make a compelling case for the implementation of the new scheme in both Tribunals across the board.

14. The Tribunals have taken note of the comments of ICSC and the Advisory Committee on Administrative and Budgetary Questions that a financial retention incentive could set a precedent for the Secretariat and other common system organizations. At the same time, the Tribunals note that ICSC recommended that the existing contractual framework should be used to grant contracts that would remove the uncertainty with regard to future employment as follows: for all staff that occupy key posts, for example, prosecutors, forensic specialists and investigators, fixed-term contracts should be granted for the duration of the mandate of the Tribunals. If turnover is not sufficient and staff must be terminated before the end of the mandate because their skills are no longer needed, staff would be eligible for termination indemnities if they otherwise met the requirements.

15. The Tribunals have also taken note of the concerns expressed by the Advisory Committee on Administrative and Budgetary Questions and the General Assembly with regard to limiting the application of the retention incentive to key staff.

16. Notwithstanding the fact that there are "key" staff in both Tribunals that can be directly linked with the courts, staff members in all categories and occupational groups at the Tribunals possess skills and institutional knowledge that make them essential to the daily functioning of the proceedings. For instance, if seven trials continue throughout 2009, as currently anticipated, and significant numbers of support staff (in the areas of information technology, security, assistance to witnesses, language, court management, etc.) depart simultaneously, there will be a direct impact on the ability of "key" staff to continue to run trials and appeals, and the Tribunals will confront serious disruptions and delays in trial proceedings, which could potentially lead to the temporary halting of trials.

17. Following the issuance of the ICSC recommendation, there was an immediate response by the staff unions of both Tribunals. The joint staff unions sent a letter to the Secretary-General expressing their concern about a limited application of the retention incentive and requesting that, if only a limited number of staff were eligible to receive an incentive payment, the original proposal be withdrawn, as they considered such a measure divisive. In their view, the payment of an incentive to only a selected number of staff would, in fact, have a more detrimental impact on overall staff morale than no payment at all.

18. The main aim of the proposed retention incentive was to allow the Tribunals to complete their mandates as expeditiously as possible by increasing staff productivity through reduced rates of staff turnover. The Tribunals would like to emphasize that the application of the incentive to a limited number of staff would inevitably have a very serious negative impact on the morale of the staff of both Tribunals, which in turn would bring about an increase in staff departures prior to the completion of trials and appeals, affect the normal operations of the proceedings and, as a result,

negate the intended benefits of the proposed new scheme. It is therefore recommended that the proposed new scheme be applicable on as wide a post-coverage basis as possible.

19. As regards the legal aspects of the implementation of the incentive (see A/61/824), it is recommended that authorization be granted to the Secretary-General to apply the termination indemnities set out in annex III to the Staff Regulations and Rules for the specific and sole purpose of approving payments related to the retention incentive package for Tribunal staff. The special authorization should be limited strictly to staff of the Tribunals, owing to the unique nature of their mandate. The Tribunals are of the view that by including very specific terminology in the resolution, the General Assembly itself can ensure that an approved incentive can be used in other Secretariat bodies only after specific approval by the Assembly.

D. Non-monetary incentives and measures

20. In order to stem the flow of staff departures and in an effort to ensure that staff remain until their services are no longer required, the Tribunals have undertaken a number of initiatives that respond to the requirements of staff and will broaden career options for them when they leave the organization. Such measures aim to enhance the skill sets of staff and to create a work environment in which such personal development activities are encouraged and facilitated. Finally, as time passes, the period of employment that the Tribunals can offer to new employees will become shorter, which will make the recruitment of highly qualified and experienced staff even more difficult. An overview of the most relevant measures, which have been developed in close consultation with the Office of Human Resource Management, the staff and staff unions, is provided below.

Training

21. The Tribunals plan to increase training opportunities, including in-house training workshops and seminars, for staff at all levels, to build up substantive and technical skills. A more holistic, United Nations competency-based approach will include managerial performance management, as well as technical and language training. Cross-training, primarily within the immediate work environment, will further improve the marketability of staff members' skills. For training and education not typically offered by the organizations (e.g., degree programmes), the study leave programme allows for up to two weeks of paid study leave or up to six months of special leave without pay.

Flexible work arrangements

22. In order to better meet work/life balance requirements, flexible working arrangements have been implemented. Studies have demonstrated that flexible working arrangements are an important factor in ensuring that staff experience satisfaction in their work environment, which, in turn, may encourage more staff to remain with the organization.

Career opportunities outside the Tribunal

23. The Tribunals allow staff to go on short-term assignment with other United Nations bodies and peacekeeping operations with a right to return, subject to work

demands and the organization's ability to carry out its activities and complete its mandate. This provides an opportunity for longer-serving staff to become familiar with other areas of the United Nations and, in the process, broaden their skills and experience, which may be beneficial to them in terms of career advancement.

24. The Tribunals intend to contact other international organizations late in 2008 to explore placement and recruitment opportunities for Tribunal staff. Similar contacts will be made with other employers in the host countries. In that context, the Tribunals are exploring the possibility of hosting meetings and events in which other international organizations participate. For instance, plans are under way for The Hague to host the annual career development round table in November 2008. That event, in which representatives of the human resources entities of many United Nations, European and other international organizations take part, provides an opportunity to acquaint those organizations with the functions and high-calibre staff of the Tribunal. During 2009, those staff members whose posts will be abolished may apply for time off for interviews or job searches, for which they may utilize uncertified sick leave.

Career counselling and transition

25. A staff survey is currently being undertaken to determine staff members' priorities and interests with respect to the type of career that they wish to pursue. The survey is aimed at determining whether staff members intend to continue within the United Nations system; remain in the country where the Tribunal is currently based; return to their home country and continue to work within their current profession; or change careers. The survey results will enable the Tribunals to build a framework that will enable it to focus more closely on the type of career development and counselling activities required. During 2008, group career-counselling sessions will be initiated, the career transition website will be updated, and a focal point for questions and guidance will be appointed. Meanwhile, presentations on the writing of curriculum vitae and workshops on interviewing techniques, among other recruitment tools, will be ongoing.

Interpretation of administrative rules to respond to the realities of limited career opportunities

26. The special conditions related to the downsizing and subsequent closing of the Tribunals call for the minimization of any administrative obstacles that may otherwise force staff to leave the Tribunal prematurely. On matters of host-State requirements, the Tribunals are in contact with the appropriate authorities to address a number of issues related to residency requirements so as, for instance, to allow dependent children of staff members whose posts are abolished during the school year to remain in the country until the school year has been completed.

Secondment from Member States, the United Nations Secretariat and other common system organizations

27. As mentioned above, the periods of employment that the Tribunals can offer new staff will become shorter as the completion dates draw near, which will have a serious impact on the ability of the Tribunals to recruit highly qualified and experienced staff. In order to address that situation, the Tribunals will explore with Member States the possibility of releasing high-calibre national staff to assist the

organization in completing its mandate during the final stages of the Tribunals' operation, on a reimbursable basis. Such secondments or temporary assignments may also be made from the United Nations Secretariat and other common system organizations. It is envisaged that assignments will be for periods of less than one year.

28. The Tribunals are actively pursuing contacts with the relevant national authorities to make information available to staff and assist them in dealing with issues related to, inter alia, residence, taxes or study opportunities for staff or dependants.

Host-State issues

29. Nationals of the host country, as well as other nationals who intend to stay in the host country, will need to reintegrate into the local labour market. Such staff will need to be informed of the relevant national legislation and requirements with regard to taxes, residence issues and study opportunities for staff or dependants, inter alia. The Tribunals are actively pursuing contacts with the relevant national authorities to make such information available and to assist in problematic areas.

E. Alternative approaches to the calculation of the amount of a retention incentive

30. As requested by the General Assembly in paragraph 9 (f) of its resolution 61/274, the Tribunals have presented three alternative approaches to the calculation of the amount of a retention incentive, taking into account the views expressed by the Advisory Committee on Administrative and Budgetary Questions, the General Assembly and the International Civil Service Commission, as well as the position of the staff unions of the two Tribunals and the views of the management of the Tribunals.

Option A

31. Under this option, the incentive will be calculated in accordance with the methodology recommended in the report of the Secretary-General on a comprehensive proposal on appropriate incentives to retain staff of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia (A/61/824). As indicated in paragraph 11 of that report, the retention incentive would apply only to staff who are required to remain with the Tribunals until their services and posts are no longer needed. The proposed incentive, which would cover only service with the Tribunals, would not be payable in the following situations:

(a) Separation from service or resignation prior to the cessation of need for services;

(b) Fixed-term appointment terminated or not renewed on disciplinary grounds or owing to reasons specified in staff regulation 9.1 (a) or for such other reason as may be specified in their letter of appointment;

(c) Staff with less than two years of service at the time the incentive is due;

(d) Staff who are seconded from the United Nations Secretariat and other United Nations common system organizations who have a post waiting for them at the time of their separation from the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda.

32. As regards the determination of the amount of the incentive, it was recommended in paragraph 10 of the report that authorization be granted to the Secretary-General to apply the termination indemnities set out under the heading "Permanent appointments" in annex III to the Staff Regulations and Rules for the specific and sole purpose of approving payments related to the retention incentive package for Tribunal staff. The special authorization should be strictly limited to staff of the Tribunals owing to the unique nature of their mandate.

33. As set out in paragraph 2 of the report and in the annex thereto, based on the cost components analysed, primarily consisting of: (a) the loss of productivity (delays in proceedings); (b) the direct costs of appointment and separation of staff (rotation costs); and (c) the actual payment of the retention incentive, the financial implications arising from the introduction of a retention incentive would far offset the additional costs related to higher rates of staff turnover. On the financing side, it is estimated that the establishment of a retention incentive payment would amount to $11.2 million and $12.1 million for the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, respectively.

34. In accordance with the approved budgets for the biennium 2008-2009, a total of 349 and 258 posts will be abolished during the course of 2009 in the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, respectively. Therefore, the first payments of the retention incentive will be due only in the last year of the biennium.

35. The advantage of this option is that it is straightforward and linked directly to an existing statutory provision. It also ensures maximum parity for staff and is therefore an incentive in terms of morals in addition to a financial incentive. This is highly favoured by the staff unions. The disadvantage lies in the fact that it does not provide for a more limited application of the incentive, in keeping with the views expressed by the Advisory Committee on Administrative and Budgetary Questions, the General Assembly and ICSC.

Option B

36. Under this approach, staff members would not be considered for an incentive payment unless they had worked for one of the Tribunals for a minimum of five years at the time of their separation, with all other conditions remaining unchanged as in option A.

37. Although this option restricts the amount of the payments by increasing the qualifying years of service threshold to five years, it has the advantage of targeting those staff that have greater seniority and hence the specialized knowledge that the Tribunals wish to retain.

38. The financial implications of this proposal would amount to $6.9 million and $7.2 million for the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, respectively. Tables 1 to 4 below compare the financial implications under options A and B, respectively.

Table 1
International Criminal Tribunal for Rwanda

Years of service	*Salary*	*Incentive (months)*	*Staff qualifying (percentage)*	*Number of posts*	*Cost of retention incentive*
Internationally recruited (P-3/V)					
2	6 833	5	40	720	9 839 500
5	6 833	5	24	720	5 880 200
Locally recruited (G-4/V)					
2	1 208	5	70	322	1 361 400
5	1 208	5	53	322	1 035 100
Overall					
Option A[a]					11 200 900
Option B					6 915 300
Variance					(4 285 600)

Note: Costs in United States dollars.
[a] See A/61/824, annex, table 3.

Table 2
International Tribunal for the Former Yugoslavia

Years of service	*Salary*	*Incentive (months)*	*Staff qualifying (percentage)*	*Number of posts*	*Cost of retention incentive*
Internationally recruited (P-3/V)					
2	7 475	5	40	454	6 787 300
5	7 475	5	24	454	4 056 200
Locally recruited (G-4/V)					
2	3 951	5	50	536	5 294 300
5	3 951	5	30	536	3 174 500
Overall					
Option A[a]					12 081 600
Option B					7 230 700
Variance					(4 850 900)

Note: Costs in United States dollars.
[a] See A/61/824, annex, table 4.

Table 3
Cost/benefit analysis for the International Tribunal for the Former Yugoslavia under the two options
(Millions of United States dollars)

Option A		
Cost component	*No incentive*	*Retention incentive*
Loss of productivity	30.0	—
Rotation costs	27.6	13.8
Retention incentive	—	12.1
Total	**57.6**	**25.9**
Option B		
Loss of productivity	30.0	—
Rotation costs	27.6	13.8
Retention incentive	—	7.2
Total	**57.6**	**21.0**

Table 4
Cost/benefit analysis for the International Criminal Tribunal for Rwanda under the two options
(Millions of United States dollars)

Option A		
Cost component	*No incentive*	*Retention incentive*
Loss of productivity	30.0	—
Rotation costs	43.2	21.6
Retention incentive	—	11.2
Total	**73.2**	**32.8**
Option B		
Loss of productivity	30.0	—
Rotation costs	43.2	21.6
Retention incentive	—	6.9
Total	**73.2**	**28.5**

Option C

39. In this option, the five-year qualifying period would also be imposed. However, in this instance the amount of the incentive would be capped at a fixed number of months, provided that the staff member has at least five years of service at the time the incentive is due. As set out in annex III to the Staff Regulations and Rules, staff with more than five years of service qualify for a minimum of three months of gross salary (less staff assessment), up to a maximum of 12 months for

those with 15 or more years of service. Under the envisaged application, the amount payable would be reduced and capped as appropriate. The financial implications would be provided by the Tribunals on the basis of the actual cap determined by the General Assembly. Alternatively, consideration could also be given to the establishment of a fixed incentive payment applicable to staff with more than five years of service, regardless of the level of seniority.

40. Either approach under option C would be simple to administer and would have the advantage of limiting the financial implications. However, those options would imply the application of a formula different from that contained in annex III to the Staff Regulations and Rules.

III. Conclusion

41. The internal (non-monetary) measures aimed at improving job security, alleviating staff concerns and providing opportunities for staff development outlined above have had and continue to have a positive impact on staff morale. However, such individual measures do not by themselves guarantee that staff members will remain with the Tribunal until their posts are abolished. It is believed, however, that a combination of monetary and non-monetary measures, of which the former is considered the most effective, will make an important contribution to the ability of the Tribunals to minimize staff losses. For that reason, it is recommended that a financial incentive be approved for staff who will remain in their posts until their functions are no longer needed.

42. As regards the conditions for the payment of the proposed incentive, both management and staff representatives are of the view that to designate specific and/or limited groups of staff as "key", and then grant them the retention incentive would most likely result in a distinct perception of unequal treatment. If the General Assembly were to endorse a targeted application of the retention incentive, those not eligible would inevitably interpret that measure as an indication that they are not deemed essential or necessary to the functioning of the institutions, which would have a detrimental impact on staff morale and motivation and may lead staff to commence an earlier search for employment. It is therefore recommended that the retention incentive be applicable on an as wide a post coverage basis as possible.

43. The cost/benefit analysis conducted by the Tribunals and contained in previous reports shows clearly that the financial implications of the retention incentive are more than offset by the savings associated with reduced turnover rates in terms of lower rotation costs and higher productivity and efficiency.

44. In the light of the foregoing and bearing in mind the views expressed by the Advisory Committee on Administrative and Budgetary Questions, ICSC and the General Assembly, the introduction of a financial retention incentive scheme as per the terms and conditions outlined in paragraphs 36 to 38 above (option B) is therefore recommended.

Annex I

Tribunal staff turnover

		2004		2005		2006		2007	
Office	*Section*	*Former Yugoslavia*	*Rwanda*	*Former Yugoslavia*	*Rwanda*	*Former Yugoslavia*	*Rwanda*	*Former Yugoslavia*	*Rwanda*
Office of the prosecutor									
Internationally recruited	Immediate Office	8	—	3	5	4	2	2	—
	Prosecution Division	14	9	3	9	15	7	16	15
	Investigations Division	43	20	20	10	10	4	6	14
	Subtotal	**65**	**29**	**26**	**24**	**29**	**13**	**24**	**29**
Locally recruited	Immediate Office	8	—	2	—	3	—	1	—
	Prosecution Division	12	—	5	—	3	—	5	—
	Investigations Division	38	—	5	—	3	—	8	2
	Subtotal	**58**	**—**	**12**	**—**	**9**	**—**	**14**	**2**
Total		**123**	**29**	**38**	**24**	**38**	**13**	**38**	**31**
Registry									
Internationally recruited	Chambers legal staff	18	5	12	18	11	7	14	8
	Other judicial services staff	6	11	6	16	10	11	10	18
	Conference and language services	9	5	2	—	10	9	3	11
	Security	—	11	—	4	1	11	1	—
	Administration	7	17	2	15	6	13	3	15
	Subtotal	**40**	**49**	**22**	**53**	**38**	**51**	**31**	**52**
Locally recruited	Chambers legal staff	16	—	1	3	2	—	—	—
	Other judicial services staff	6	4	8	3	6	1	15	3
	Conference and language services	3	2	1	—	1	3	2	2
	Security	39	4	22	6	15	3	33	10
	Administration	18	21	13	13	7	12	11	11
	Subtotal	**82**	**31**	**45**	**25**	**31**	**19**	**61**	**26**
Total		**122**	**80**	**67**	**78**	**69**	**70**	**92**	**78**
International		105	78	78	77	67	64	55	81
Locally recruited		140	31	57	25	40	19	75	28
Overall		**245**	**109**	**135**	**102**	**107**	**83**	**130**	**109**

Annex II

Approved staffing levels of the International Tribunal for the Former Yugoslavia, 2008-2009

A. Office of the prosecutor

		Proposed 2009		Reductions 2009		Total reductions	
Grade	*Proposed 2008*	*Aug.*	*Nov.*	*Aug.*	*Nov.*	*Number*	*Percentage*
USG	1	1	1	—	—	—	
ASG	—	—	—	—	—	—	
D-2	1	1	1	—	—	—	
D-1	2	2	2	—	—	—	
P-5	18	15	11	3	4	7	39
P-4	57	49	35	8	14	22	39
P-3	81	69	51	12	18	30	37
P-2	38	37	30	1	7	8	21
Subtotal	**198**	**174**	**131**	**24**	**43**	**67**	**34**
General Service, Principal level	1	1	1	—	—	—	—
General Service, Other level	126	85	63	41	22	63	50
Subtotal	**127**	**86**	**64**	**41**	**22**	**63**	**50**
Total	**325**	**260**	**195**	**65**	**65**	**130**	**40**

B. Registry

		Proposed 2009		Reductions 2009		Total reductions	
Grade	*Proposed 2008*	*Aug.*	*Nov.*	*Aug.*	*Nov.*	*Number*	*Percentage*
USG	—	—	—	—	—	—	
ASG	1	1	1	—	—	—	
D-2	—	—	—	—	—	—	
D-1	2	2	2	—	—	—	
P-5	17	17	17	—	—	—	
P-4	52	52	51	—	1	1	2
P-3	102	95	82	7	13	20	20
P-2	79	76	60	3	16	19	24
Subtotal	**253**	**243**	**213**	**10**	**30**	**40**	**16**

Grade	Proposed 2008	Proposed 2009		Reductions 2009		Total reductions	
		Aug.	Nov.	Aug.	Nov.	Number	Percentage
General Service, Principal level	10	10	10	—	—	—	
General Service, Other level	244	224	176	20	48	68	28
Subtotal	**254**	**234**	**186**	**20**	**48**	**68**	**27**
Security and Safety Service	155	150	135	5	15	20	13
Total	**662**	**627**	**534**	**35**	**93**	**128**	**19**

C. Overall International Tribunal for the Former Yugoslavia

Grade	Proposed 2008	Proposed 2009		Reductions 2009		Total reductions	
		Aug.	Nov.	Aug.	Nov.	Number	Percentage
USG	1	1	1	—	—	—	
ASG	1	1	1	—	—	—	
D-2	1	1	1	—	—	—	
D-1	4	4	4	—	—	—	
P-5	35	32	28	3	4	7	20
P-4	109	101	86	8	15	23	21
P-3	183	164	133	19	31	50	27
P-2	117	113	90	4	23	27	23
Subtotal	**451**	**417**	**344**	**34**	**73**	**107**	**24**
General Service, Principal level	11	11	11	—	—	—	—
General Service, Other level	370	309	239	61	70	131	35
Subtotal	**381**	**320**	**250**	**61**	**70**	**131**	**34**
Security and Safety Service	155	150	135	5	15	20	13
Total	**987**	**887**	**729**	**100**	**158**	**258**	**26**

Approved staffing levels of the International Criminal Tribunal for Rwanda, 2008-2009

A. Office of the prosecutor

Grade	Approved 2008	Approved Jan. 09	Reductions Jan. 08	Reductions Jan. 09	Total reductions	
					Number	Percentage
USG	1	1	—	—	—	
ASG	—	—	—	—	—	
D-2	1	1	—	—	—	
D-1	2	2	—	—	—	
P-5	18	13	—	5	5	28
P-4	41	36	—	5	5	12
P-3	62	39	8	23	31	50
P-2	40	17	2	23	25	63
Subtotal	**165**	**109**	**10**	**56**	**66**	**40**
General Service, Principal level	—	—	—	—	—	
General Service, Other level	37	31	—	6	6	16
Field service	1	1	—	—	—	—
Local level	6	1	—	5	5	83
Subtotal	**44**	**33**	**—**	**11**	**11**	**25**
Total	**209**	**142**	**10**	**67**	**77**	**37**

B. Registry

Grade	Approved 2008	Approved Jan. 09	Reductions Jan. 08	Reductions Jan. 09	Total reductions	
					Number	Percentage
USG	—	—	—	—	—	—
ASG	1	1	—	—	—	—
D-2	—	—	—	—	—	—
D-1	2	2	—	—	—	—
P-5	13	11	—	2	2	15
P-4	49	45	—	4	4	8
P-3	97	75	—	22	22	23
P-2	77	37	—	40	40	52
Subtotal	**239**	**171**	**—**	**68**	**68**	**28**

Grade	Approved 2008	Approved Jan. 09	Reductions Jan. 08	Reductions Jan. 09	Total reductions	
					Number	Percentage
General Service, Principal level	7	6	—	1	1	
General Service, Other level	150	104	—	46	46	31
Field service	24	20	—	4	4	17
Local level	316	200	—	116	116	37
Subtotal	**497**	**330**	**—**	**167**	**167**	**34**
Security and Safety Service	**87**	**50**	**—**	**37**	**37**	**43**
Total	**823**	**551**	**—**	**272**	**272**	**33**

C. Overall International Criminal Tribunal for Rwanda

Grade	Approved 2008	Approved Jan. 09	Reductions Jan. 08	Reductions Jan. 09	Total reductions	
					Number	Percentage
USG	1	1	—	—	—	
ASG	1	1	—	—	—	
D-2	1	1	—	—	—	
D-1	4	4	—	—	—	
P-5	31	24	—	7	7	23
P-4	90	81	—	9	9	10
P-3	159	114	8	45	53	33
P-2	117	54	2	63	65	56
Subtotal	**404**	**280**	**10**	**124**	**134**	**33**
General Service, Principal level	7	6	—	1	1	14
General Service, Other level	187	135	—	52	52	28
Field service	25	21	—	4	4	16
Local level	322	201	—	121	121	38
Subtotal	**541**	**363**	**—**	**178**	**178**	**33**
Security and Safety Service	**87**	**50**	**—**	**37**	**37**	**43**
Total	**1 032**	**693**	**10**	**339**	**349**	**33**

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Security Council

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General Assembly
Sixty-second session
Agenda items 16 and 20

Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Security Council
Sixty-third year

Letter dated 7 February 2008 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the comments of the Press Secretary of the Ministry of Foreign Affairs on the recent statements by the Foreign Minister of Armenia (see annex).

I should be grateful if the comments were distributed as a document of the General Assembly, under agenda items 16 and 20, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative

08-23377 (E) 120208

Annex to the letter dated 7 February 2008 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

Comments of the Press Secretary of the Ministry of Foreign Affairs on the recent statements by the Foreign Minister of Armenia

19 December 2007

After the Madrid meeting of the OSCE Ministerial Council, Armenian Government officials started aggressively pursuing propaganda to misrepresent the peace talks on the Armenia-Azerbaijan Nagorno Karabakh conflict, attempting to mislead both the domestic and the international public on the substance of the talks.

It is a clear indication of a pre-election hysteria to delude the Armenian people, nevertheless requiring a clear response and clarifications to avoid any misinterpretations.

The talks are built on the clear stance of the full restoration of Azerbaijan's territorial integrity and sovereignty over all the occupied Azerbaijani territories and return of the displaced people ethnically cleansed by the Armenian State to their lands of origin, including the Nagorno Karabakh region of Azerbaijan. Azerbaijan does not negotiate its territorial integrity and never will.

At the same time, Azerbaijan has always demonstrated its very good will through the search for every opportunity to find a peaceful solution to the conflict and we do not believe that diplomatic options are exhausted.

Armenia, on the contrary, through continued military aggression, demonstrates its unchanged policy of the use of force, which is intolerable. Article 51 of the Charter of the United Nations gives a full right of self-defence if an armed attack occurs. We see a paradox when the aggressor State Armenia surpasses a victim of aggression, Azerbaijan, in military expenditure as a percentage of GDP: 4.3 versus 3.8. Besides, Armenia has heavily militarized separatists in Nagorno Karabakh.

Azerbaijan values the position of the international community, which has unequivocally supported the territorial integrity of Azerbaijan through the adoption of resolutions, statements and decisions, on both State and international organization levels, and we strongly believe that propaganda by Armenian officials will ring another alarm bell about the real intentions of the Government of Armenia.

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Question of Cyprus

Security Council
Sixty-third year

Letter dated 7 February 2008 from the Permanent Representative of Cyprus to the United Nations addressed to the Secretary-General

Upon instructions from my Government and further to my letter dated 17 December 2007 (A/62/590-S/2007/745), I have the honour to draw your attention to new violations of the international air traffic regulations and the national airspace of the Republic of Cyprus by military aircraft of the Turkish Air Force, recorded from 5 December 2007 to 30 January 2008, as follows:

On 5 December 2007, two C-160 Turkish military aircraft violated the international air traffic regulations twice and the national airspace of the Republic of Cyprus twice.

On 7 December 2007, two Cougar Turkish military aircraft violated the international air traffic regulations twice and the national airspace of the Republic of Cyprus twice.

On 11 December 2007, two F-16 and four Cougar Turkish military aircraft violated the international air traffic regulations four times and the national airspace of the Republic of Cyprus four times.

On 12 December 2007, two F-16, two CN-235, two B-200 and one Cougar Turkish military aircraft violated the international air traffic regulations six times and the national airspace of the Republic of Cyprus three times.

On 17 December 2007, two F-16, one CN-235 and two Cougar Turkish military aircraft violated the international air traffic regulations four times and the national airspace of the Republic of Cyprus twice.

On 18 December 2007, two CN-235 and two Cougar Turkish military aircraft violated the international air traffic regulations four times and the national airspace of the Republic of Cyprus four times.

On 19 December 2007, two C-160 Turkish military aircraft violated the international air traffic regulations twice and the national airspace of the Republic of Cyprus twice.

08-23383 (E) 120208

On 25 December 2007, one F-16 and two CN-235 Turkish military aircraft violated the international air traffic regulations once and the national airspace of the Republic of Cyprus twice.

On 26 December 2007, two B-200 and three Cougar Turkish military aircraft violated the international air traffic regulations five times and the national airspace of the Republic of Cyprus five times.

On 27 December 2007, one CN-235 Turkish military aircraft violated the international air traffic regulations and the national airspace of the Republic of Cyprus.

On 2 January 2008, two CN-235 Turkish military aircraft violated the international air traffic regulations twice and the national airspace of the Republic of Cyprus twice.

On 6 January 2008, two CN-235 Turkish military aircraft violated the international air traffic regulations twice and the national airspace of the Republic of Cyprus twice.

On 7 January 2008, two F-16 and one CN-235 Turkish military aircraft violated the international air traffic regulations twice.

On 8 January 2008, one Cougar Turkish military aircraft violated the international air traffic regulations and the national airspace of the Republic of Cyprus.

On 9 January 2008, two B-200 Turkish military aircraft violated the international air traffic regulations twice and the national airspace of the Republic of Cyprus twice.

On 13 January 2008, one CN-235 Turkish military aircraft violated the international air traffic regulations and the national airspace of the Republic of Cyprus.

On 14 January 2008, one Cougar Turkish military aircraft violated the international air traffic regulations and the national airspace of the Republic of Cyprus.

On 15 January 2008, six F-16 and twelve F-4 Turkish military aircraft violated the international air traffic regulations four times, and two C-160 Turkish military aircraft violated the international air traffic regulations twice and the national airspace of the Republic of Cyprus twice.

On 16 January 2008, two C-130 Turkish military aircraft violated the international air traffic regulations twice and the national airspace of the Republic of Cyprus twice.

On 22 January 2008, two C-160 and one Cougar Turkish military aircraft violated the international air traffic regulations three times and the national airspace of the Republic of Cyprus three times.

On 23 January 2008, two F-16 and one CN-235 Turkish military aircraft violated the international air traffic regulations twice, and two B-200 and one Cougar Turkish military aircraft violated the international air traffic regulations four times and the national airspace of the Republic of Cyprus four times.

On 30 January 2008, two F-16 and one CN-235 Turkish military aircraft violated the international air traffic regulations twice, and two Cougar Turkish military aircraft violated the international air traffic regulations twice and the national airspace of the Republic of Cyprus twice.

On behalf of my Government, I strongly protest the aforementioned violations and call for their immediate cessation. I would like to stress that Turkey by its irresponsible actions not only gravely violates international law and international rules, but also puts at risk the safety of international civil aviation in the region.

Turkey, a country that has aspirations to take a non-permanent seat in the Security Council next year, systematically attempts to undermine the sovereignty and unity of the Republic of Cyprus by promoting an illegal secessionist entity, arrogating to itself, inter alia, the right to interfere in part of the sovereign airspace of Cyprus. This gravely jeopardizes the atmosphere of trust and confidence that should prevail between the two sides in order to resume negotiations and provides once again evidence of Turkey's precise political aim, which is to consolidate the division of the island and maintain its presence in Cyprus.

I should be grateful if you would arrange for the text of the present letter to be circulated as a document of the General Assembly, under agenda item 22, and of the Security Council.

(*Signed*) Andreas D. **Mavroyiannis**